



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,564	08/15/2006	Michael Komowski	016906-0509	9060

22428 7590 03/31/2008
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

MILLER, SAMANTHA A

ART UNIT	PAPER NUMBER
----------	--------------

3749

MAIL DATE	DELIVERY MODE
-----------	---------------

03/31/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/578,564	Applicant(s) KOMOWSKI, MICHAEL	
	Examiner SAMANTHA A. MILLER	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/5/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 rejected under 35 U.S.C. 102(b) as being anticipated by
KOMOWSKI (6,319,112).

KOMOWSKI teaches:

1. A drum flap (410) having a part-cylinder surface (Fig.1), which forms a first region (435), with two circle segment surfaces (Fig.14), which each form a second region (434), and having an externally surrounding rim (414), which is arranged substantially in two planes (Fig.7), projects outward and serves to bear against correspondingly designed bearing surfaces (Fig.7), characterized in that the drum flap has at least a second rim (412) (col.5 ll.18-29).

2. The second rim is provided in the first region (being connected to 435, Fig.14) of the drum flap (col.5 ll.18-29).

3. The second rim is provided in the second region (being connected to 434, Fig.14) (col.5 ll.18-29).

4. The second rim is arranged in a plane in which a pivot axis also lies (Fig.7), and projects outward, the plane in which the second rim lies being arranged in an angle between the other two planes in which the first rim lies (Fig.14) (col.5 ll.18-29).

5. The drum flap has at least one opening (432) in at least one segment of the first and/or second region the segment being delimited by two adjacent rims (Fig.7) (col.5 ll.18-29).

6. A circular region, the thickness of which is designed to match the rims is provided in the region of the pivot axis (Fig.7) (col.5 ll.18-29).

7. The second rim runs substantially around a third region (436), which directly or indirectly - separated by an intermediate region (rim between 436 and 434) adjoins the lateral surface in the region of the first rim (Fig.7) (col.5 ll.18-29).

8. The third region (436) is approximately rectangular in form (Fig.7).

9. The planes in which the third region and the intermediate region lie are arranged at an angle not equal to 180° with respect to one another (Fig.8-9, there is a flexible angle between 434 rim and 436) (col.5 ll.18-29).

10. Two outwardly protruding beating journals (424) are provided on the pivot axis (col.5 ll.18-29).

11. The drum flap arranged in the air guidance housing (Fig.8-9) (col.5 ll.18-29).

12. The drum flap serves as an air distributor flap and/or as a temperature mixing flap (col.4 ll.13-19).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samantha A. Miller whose telephone number is 571-272 9967. The examiner can normally be reached on Monday - Thursday 8:00 - 4:30.

Art Unit: 3749

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Samantha Miller
Examiner
Art Unit 3749
3/27/2008

/Steven B. McAllister/
Supervisory Patent Examiner, Art Unit 3749